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9
10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 GBM – SEASON 2, LLC, a Nevada
13 limited liability company; BATTLE OF
THE STRANDS INC., a Nevada
14 corporation; BEAUTY FITNESS AND
FASHION TV, INC. a Nevada corporation;
15 and MINA LU,
an individual,

16 Plaintiffs,

17 v.

18 TOTALLY PACKAGED, LLC, a limited
19 liability company; MUSIC 4 MY SOUL
LLC, a limited liability company; VEDA
20 L. SMITH, an individual,

21 Defendants.

Case No.: 2:16-cv-00570-RFB-CWH

**PLAINTIFFS' MOTION FOR
EXTENSION OF TIME FOR
SERVICE**

(Second Request)

22
23 Pursuant to Federal Rules of Civil Procedure 4(m) and 6(b) and District of Nevada
24 Local Rule 6-1, Plaintiff GBM – SEASON 2, LLC; BATTLE OF THE STRANDS INC.;
25 BEAUTY FITNESS AND FASHION TV, INC.; and MINA LU (herein collectively
26 “Plaintiffs”) hereby move the Court for a 62-day extension of time, from September 20,
27 2016 to November 21, 2016 (a 60-day extension would fall on a Saturday), to perform
28 service of the summons and complaint upon Defendants.

LEGAL STANDARDS

A. Fed. R. Civ. P. 4(m)

Rule 4 of the Federal Rules of Civil Procedure governs service of process in a civil action. *See generally*, Fed. R. Civ. P. 4. Subpart (m) of the rule sets forth the time period during which service must occur. *Id.* It states, in relevant part, the following:

Time Limit for Service. If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m).

B. Fed. R. Civ. P. 6

Federal Rules of Civil Procedure 6(b)(1) governs requests for the extension of time. The rule states, in pertinent part, as follows:

(1) In General. When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) . . . if a request is made, before the original time or its extension expires; or (B) on motion made after the time has expired if the party failed to act because of excusable neglect.

Fed. R. Civ. P. 6(b)(1).

C. D. Nev. LR IA 6-1

District of Nevada Local Rule IA 6-1 also governs requests for the extension of time. The rule states, in pertinent part, as follows:

(a) A motion or stipulation to extend time must state the reasons for the extension requested and must inform the court of all previous extensions of the subject deadline the court granted. (Examples: “This is the first stipulation for extension of time to file motions.” “This is the third motion to extend time to take discovery.”) A request made after the expiration of the specified period will not be granted unless the movant or attorney demonstrates that the failure to file the motion before the deadline expired was the result of excusable neglect. Immediately below the title of the motion or stipulation there also must be a statement indicating whether it is the first, second, third, etc., requested extension, i.e.:

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1 STIPULATION TO EXTEND TIME TO FILE MOTIONS
 2 (First Request)

3 (b) The court may set aside any extension obtained in
 4 contravention of this rule.

5 (c) A stipulation or motion seeking to extend the time to file an
 6 opposition or reply to a motion, or to extend the time fixed for
 7 hearing a

8 motion, must state in its opening paragraph the filing date of the
 9 subject motion or the date of the subject hearing

10 (d) Motions to shorten time will be granted only upon an attorney
 11 or party's declaration describing the circumstances claimed to
 12 constitute good cause to justify shortening of time. The moving
 13 party must advise the courtroom administrator for the assigned
 14 judge that a motion for an order shortening time was filed.

15 LR IA 6-1.

16 **ARGUMENT**

17 Requests for extension of time made before the applicable deadline has passed
 18 "normally will be granted in the absence of bad faith on the part of the party seeking relief
 19 or prejudice to the adverse party." 4B Charles Alan Wright *et al.*, *Federal Practice and*
 20 *Procedure* § 1165 (4th ed. 2015). If the plaintiff's motion is reasonable and made in good
 21 faith, and there is no prejudice to the defendant; such requests should be granted as a
 22 matter of course. *See, e.g., Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1260 (9th
 23 Cir. 2010) (district court abused its discretion in denying a timely extension that was
 24 "reasonable, justified, and would not result in prejudice to any party.").

25 Here, by and through a previous order, the deadline for service is September 20
 26 (Docket Number 8) but there is good cause for a second extension of time. Since the last
 27 extension, the parties are continuing to engage in settlement discussions and exchange of
 28 documents towards resolution, and therefore more time is needed. (Youssefieh Decl. ¶ 2.)

29 **CONCLUSION**

30 For the foregoing reasons, Plaintiffs respectfully request that the Court enter an
 31 order extending the time for Plaintiffs to perform service of summons and complaint upon

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Defendants from September 20, 2016 to November 21, 2016.

DATED: September 20, 2016.

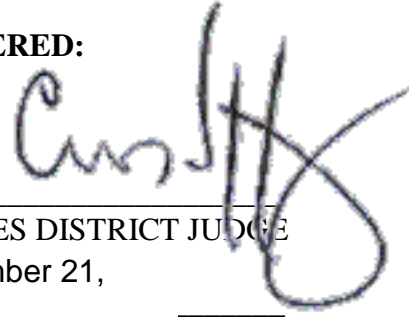
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ORDER

IT IS SO ORDERED:



UNITED STATES DISTRICT JUDGE
September 21,
DATE: 2016